

Carolyn J. Johnsen - 011894  
cjjohnsen@jsslaw.com  
Kami M. Hoskins - 026271  
khoskins@jsslaw.com  
**JENNINGS, STROUSS & SALMON, P.L.C.**  
A Professional Limited Liability Company  
One East Washington Street, Suite 1900  
Phoenix, Arizona 85004-2554  
Telephone: (602) 262-5911

*Proposed Attorneys for the Debtor*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF ARIZONA**

In re:

SURGICAL SPECIALTY HOSPITAL  
OF ARIZONA, LLC,  
  
Debtor.

Chapter 11 Proceeding

No. 2:13-bk-20029

**EMERGENCY MOTION FOR  
INTERIM AND FINAL ORDERS  
UNDER 11 U.S.C. § 366  
DETERMINING ADEQUATE  
ASSURANCE OF PAYMENT FOR  
FUTURE UTILITY SERVICES  
AND ESTABLISHING  
DETERMINATION AND  
OBJECTION PROCEDURES**

**Hearing Date: TBD  
Hearing Time: TBD**

Surgical Specialty Hospital of Arizona, LLC, debtor and debtor-in-possession in the above-captioned case (the “**Debtor**”), by and through its undersigned counsel, hereby files the *Emergency Motion for Interim and Final Orders Under 11 U.S.C. §§ 366 Determining Adequate Assurance of Payment for Future Utility Services and Establishing Determination and Objection Procedures* (the “**Motion**”). The Debtor supports the Motion with the contemporaneously filed *Declaration of William J. Comer in Support of First Day Motions* (the “**Comer Declaration**”), the following Memorandum of Points and Authorities, and all matters of record.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**MEMORANDUM OF POINTS AND AUTHORITIES**

**JURISDICTION AND VENUE.**

1. On November 19, 2013 (the “**Petition Date**”), the Debtor filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the “**Bankruptcy Code**”).

2. Pursuant to Bankruptcy Code §§ 1107 and 1108, the Debtor continues to operate its business and manage its assets as debtor in possession.

3. This Court has jurisdiction over these Chapter 11 proceedings under 28 U.S.C. §§ 157 and 1334.

4. These matters constitute core proceedings under 28 U.S.C. § 157(b)(2).

5. The Debtor is an Arizona limited liability company with its principal place of business in Phoenix, Maricopa County, Arizona.

6. Venue of Debtor’s Chapter 11 proceedings is proper in this District under 28 U.S.C. §§ 1408 and 1409.

7. The relief requested by this Motion may be granted in accordance with the provisions of 11 U.S.C. §§ 105(a), 345, and 363, FED. R. BANKR. P. 9006(c) and 9007, and LOCAL R. BANKR. P. 9013-1(h).

**FACTUAL BACKGROUND**

**A. Overview.**

8. The Debtor was formed on March 28, 2005 under the laws of the State of Arizona. It also operates under the name The Surgical Hospital of Phoenix. The principal activity of the Debtor is to provide surgical operating facilities and related healthcare services to doctors and their patients in Maricopa County, Arizona.

9. The Debtor is a full-service hospital specializing in inpatient and outpatient spine and orthopedic surgeries. It also provides an additional wide range of procedures including bariatric, general surgery, pain management, gastrointestinal, imaging and lab services. The Debtor is a 100% physician-owned hospital consisting

1 of 15 physician owners (members) and has approximately 200 physicians  
2 credentialed to provide services. The Debtor's staff consists of about 100 employees,  
3 including nurses.

4 10. William J. Comer manages the Debtor and is the Chief Executive  
5 Officer. The Debtor's Board of Directors is comprised of Daniel Lieberman, Chair;  
6 Christopher Yeung, Chief of Staff; Steven Kassman, owner designee; and William J.  
7 Comer, ex-officio.

8 11. The Debtor leases its hospital facility from SSHA Building, LLC  
9 ("SSHA"), an Arizona limited liability company owned by the physicians who also  
10 own the Debtor. The Debtor's monthly lease payments to SSHA are \$101,946.20.  
11 SSHA pays a monthly management fee of \$4,574.63 to the Debtor.

12 12. The Debtor has been designated as the preferred healthcare provider of  
13 the Phoenix Coyotes, which are part of the National Hockey League. The Debtor  
14 consistently demonstrates low infection rates (currently .03%) and very high patient  
15 satisfaction scores (currently on average of 83%). The Debtor prioritizes quality  
16 measures and patient care and as a result has patients and their families providing  
17 superior feedback.

18 **B. Assets and Liabilities.**

19 13. The Debtor's assets consist of inventory and supplies believed to be  
20 valued at approximately \$1,000,000.00, equipment believed to be valued at  
21 approximately \$1,800,000.00, and collectible receivables believed to have a value of  
22 approximately \$1,300,000.00. Annual gross revenues are about \$70,000,000.00;  
23 annual net revenues are about \$22,000,000.00.

24 14. The Debtor's secured debt consists of about \$425,000.00 owed to  
25 Wells Fargo Bank, National Association, which claims a security interest in all of the  
26 Debtor's assets, plus approximately \$450,000.00 related to various capital leases.

27 15. The Debtor's accounts payable totals approximately \$2,700,000.00, and  
28

1 total unsecured trade debt is approximately \$3,200,000.00. The Debtor has a loan  
2 outstanding from its affiliate, SSHA in the amount of approximately \$2,145,833.39.

3 16. In addition, the Debtor, as a physician-owned hospital, has the  
4 obligation to report potential compliance issues pursuant to various health care  
5 regulations. The Debtor's pending issues could result in liability for the return of  
6 Medicare/Medicaid funds as high as \$14,700,000.00. The Debtor, however, disputes  
7 such liability and has been working with the appropriate agencies toward a  
8 resolution.

9 **C. Events Precipitating the Bankruptcy Filing.**

10 17. Over the last few years, the Debtor has suffered from cash-flow  
11 problems based on a number of administrative issues, including the lack of strict  
12 vendor and supply management, taking on non-profitable cases, maintaining  
13 unprofitable health care payor contracts, inefficient management of accounts  
14 receivable, overstaffing, and dealing with regulatory questions. Since Mr. Comer's  
15 arrival in 2012, the Debtor has taken many steps to rectify these problems.  
16 Specifically, the Debtor has reduced salaries by over \$2,000,000.00; reduced costs of  
17 certain of its critical surgical devices, namely implants; and eliminated most of its  
18 non-profitable cases, all while maintaining patient satisfaction and quality measures  
19 at industry best-practice standards.

20 18. Nevertheless, despite the past and on-going efforts to increase  
21 revenues, decrease expenses, and maintain quality measures, the tight cash situation  
22 persists. Consequently, the Debtor believes that a Chapter 11 proceeding would give  
23 it a respite from the cash strains and allow it to better address creditor issues and  
24 restructure its operations and its debt.

25 **RELIEF REQUESTED**

26 19. The Debtor seeks entry of interim and final orders: (i) determining that  
27 the entities providing utility services to the Debtor have been provided adequate  
28

1 assurance of payment within the meaning of Bankruptcy Code § 366, pending entry  
2 of a final order; (ii) approving the Debtor's proposed offer of adequate assurance of  
3 payment and procedures for which the Utility Companies (as defined below) may  
4 request additional or different adequate assurance; (iii) prohibiting the Utility  
5 Companies from altering, refusing, or disconnecting services to the Debtor on  
6 account of the filing, any pre-petition amounts outstanding, or on account of any  
7 perceived inadequacy of the Debtor's proposed adequate assurance, pending entry of  
8 a Final Order; (iv) establishing procedures for Utility Companies that seek to opt out  
9 of the proposed adequate assurance procedures; (v) determining that the Debtor is not  
10 required to provide any additional adequate assurance, beyond that proposed in this  
11 Motion, pending entry of the Final Order; and (vi) setting a final hearing on the  
12 Debtor's proposed adequate assurance. Attached hereto as **Exhibit A** is a list of the  
13 Utility Companies that rendered service to the Debtor as of the Petition Date  
14 (collectively, the "**Utility Companies**").

15 **PROPOSED PROCEDURES FOR ADEQUATE ASSURANCE**

16 20. The Debtor proposes the following procedures for determining  
17 adequate assurance of payment under Bankruptcy Code § 366 ("**Proposed**  
18 **Procedures for Adequate Assurance**").

19 **A. Proposed Adequate Assurance.**

20 21. The Debtor fully intends to pay all post-petition obligations owed to the  
21 Utility Companies in a timely manner.

22 22. The Debtor proposes to provide the Utility Companies with "adequate  
23 assurance" of future payment in accordance with Bankruptcy Code §§ 366(b) and (c)  
24 by agreeing to provide a deposit up to the equivalent of the value of one month  
25 average utility billing over the past 12 months of Utility Services at the request of the  
26 Utility Companies. The Debtor will provide the Proposed Adequate Assurance  
27 deposit to each Utility Company only upon its written request. The deposit, if  
28

1 requested and made, will remain in place with the Utility Company in addition to the  
2 Debtor's monthly payment for Utility Services, and it will provide adequate  
3 assurance of payment with respect to all accounts that the Debtor has with such  
4 Utility Company whether now active or established in the future. The Debtor will  
5 timely pay any balances due on undisputed post-petition invoices from the Utility  
6 Companies. Together with the Debtor's ability to pay future utility services in the  
7 ordinary course of business, these are adequate assurances of continued payment for  
8 services rendered by the Utility Companies (collectively, the "**Proposed Adequate**  
9 **Assurance**"). If any Utility Company believes additional adequate assurance is  
10 required, they may request additional assurance in accordance with the  
11 Determination Procedures outlined below.

12 **B. Determination Procedures.**

13 23. Notwithstanding the Proposed Adequate Assurance defined above, the  
14 Debtor proposes to further protect the Utility Companies by establishing procedures  
15 for the Utility Companies to request additional assurance of payment for future utility  
16 services. Specifically, the Debtor proposes that an Interim Order be granted and  
17 contain the following procedures for a determination of adequate assurances (the  
18 "**Determination Procedures**");

- 19 a. Aside from complying with the procedures outlined below, the Utility  
20 Companies are prohibited from discontinuing or refusing service on  
21 account of any unpaid pre-petition changes, or requiring additional  
22 adequate assurance of payment other than the Proposed Adequate  
23 Assurance pending entry of the Final Order.
- 24 b. Within 10 business days after the entry of the Interim Order, the Debtor  
25 shall provide a copy of the Interim Order to all Utility Companies  
26 identified in Exhibit A.
- 27 c. Any Utility Company desiring additional assurance of payment in the  
28

1 form of additional deposits, pre-payments, or other means must serve  
2 written request for such additional assurance upon the Debtor's  
3 attorney at the following address:

4 Carolyn J. Johnsen  
5 Kami M. Hoskins  
6 JENNINGS, STROUSS & SALMON, PLC  
7 One E. Washington Street, Suite 1900  
8 Phoenix, AZ 85004-2554

- 9
- 10 d. Any Utility Company's request for additional adequate assurance must
- 11 (i) be in writing; (ii) set forth the location for which utility services are
- 12 provided; (iii) include a summary of the Debtor's payment history
- 13 relevant to affected account(s), including any security deposits; and (iv)
- 14 set forth why the Utility Company believes the Proposed Adequate
- 15 Assurance is insufficient adequate assurance of future payment.
- 16 e. On the Debtor's attorneys receipt of any additional assurance requests
- 17 at the address set forth above, the Debtor shall have 14 days from the
- 18 date of receipt of the additional assurance request, to negotiate with
- 19 such Utility Company to resolve the adequate assurance request (the
- 20 "**Resolution Period**").
- 21 f. The Debtor may, in its discretion, resolve any adequate assurance
- 22 request by mutual agreement with the Utility Company without further
- 23 order of the Court, and may, in connection with any such agreement, in
- 24 its discretion, provide a Utility Company with additional adequate
- 25 assurance of future payment, including, but not limited to, cash
- 26 deposits, pre-payments, or other forms of security, without further
- 27 order of the Court if the Debtor believes such additional assurance is
- 28 reasonable.
- g. If the Debtor determines that any request is not reasonable and are not  
able to resolve the request during the Resolution Period, the Debtor will

1 request a hearing to determine the adequacy of assurances of payment  
2 with respect to a particular Utility Company under Bankruptcy Code §  
3 366(c).

4 h. Pending the resolution of such hearing, any affected Utility Company  
5 will be prohibited from discontinuing, altering, or refusing services to  
6 the Debtor on account of outstanding balances for pre-petition services  
7 or on about of any objection to the Proposed Adequate Assurance.

8 **C. Objection Procedures.**

9 24. Historically, debtors were able to put the burden on utility companies  
10 under Bankruptcy Code § 366, to argue that whatever form of adequate assurance  
11 proposed by the debtor was insufficient. The recent modifications to Bankruptcy  
12 Code § 366 arguably shift the burden onto debtors to provide adequate assurance the  
13 utility provider finds satisfactory, and to seek court review if the utility provider does  
14 not accept the proposed adequate assurance. Now under Bankruptcy Code § 366, a  
15 Utility Company could, on the 30th day following the Petition Date, announce that  
16 the proposed adequate assurance is not acceptable, demand an unprecedented deposit  
17 or prepayment in any amount it deems fit and threaten to terminate utility service the  
18 next day unless the Debtor complied with the demand. While the Debtor does not  
19 concede that the foregoing scenario reflects a correct interpretation of the revised  
20 Bankruptcy Code § 366, the Debtor nonetheless believes it is prudent to require  
21 Utility Companies to raise any objections to the Adequate Assurance Procedures so  
22 that such objections may be heard by the Court before the running of the 30-day  
23 period following the Petition Date.

24 25. To avoid this damaging situation, the Debtor proposes the following  
25 objection procedures to resolve potential objections to the Interim Order or the  
26 Proposed Adequate Assurance (the “**Objection Procedures**”):

27 a. Any Utility Company that objects to the Interim Order of the Proposed  
28



1 Adequate Assurance must file an Objection with the Court on or before  
2 20 days of the entry of the Interim Order and serve it upon the Debtor's  
3 counsel at the address referenced in the heading to this Motion.

- 4 b. Any Objection must: (i) be in writing; (ii) set forth the location for  
5 which the utility services are provided; (iii) include a summary of the  
6 Debtor's payment history relevant to the affected account(s), including  
7 any security deposits; (iv) set forth why the Utility Company believes  
8 the Interim Order or the Proposed Adequate Assurance is insufficient  
9 adequate assurance of future payments; (v) set forth why the Utility  
10 Company believes it should be exempt from such order and procedures.
- 11 c. The Debtor may in its discretion, resolve any Objection by mutual  
12 agreement with the Utility Company and without further order of the  
13 Court, and may, in connection with any such agreement, in their  
14 discretion, provide a Utility Company with additional adequate  
15 assurance of future payment including, but not limited to, cash deposit,  
16 prepayment and/or other forms of security, without further order of the  
17 Court if the Debtor believes such additional assurance is reasonable.
- 18 d. If the Debtor determines that the Objection is not reasonable and the  
19 parties are unable to reach a prompt alternative resolution, the  
20 Objection will be heard on an expedited basis, if possible. During this  
21 period, the Utility Company may not discontinue, alter, or refuse  
22 services to, or discriminate against, the Debtor on account of any  
23 unpaid pre-petition charges or the commencement of this case.
- 24 e. All Utility Companies that do not file an Objection are deemed to  
25 consent to the Adequate Assurance and shall be bound. The sole  
26 recourse of all Utility Companies that do not timely file an Objection  
27 shall be to submit an additional assurance request pursuant to these  
28

1 procedures and such Utility Company shall be enjoined from altering,  
2 refusing, or discontinuing service to, or discriminating against, the  
3 Debtor pending any hearing that may be conducted pursuant to these  
4 procedures.

5 **D. Subsequent Modification to Exhibit A.**

6 26. The Debtor has made an extensive and good-faith effort to identify all  
7 of the Utility Companies and include them in Exhibit A. Nonetheless, it is possible  
8 that the Debtor has not identified or included certain Utility Companies on Exhibit A.  
9 To the extent that the Debtor identifies additional Utility Companies (the  
10 “**Additional Utility Companies**”), the Debtor will file amendments to Exhibit A,  
11 and shall serve a copy of the Order on such Additional Utility Companies. The  
12 Debtor requests that the Order be binding on all Utility Companies, including the  
13 Additional Utility Companies, regardless of when such Utility Company was added  
14 to Exhibit A; provided that, with respect to any Additional Utility Company, the  
15 thirty (30) day and twenty (20) day periods described in the procedures above shall  
16 commence as of the date that the Debtor serves the Order on such Additional Utility  
17 Company as opposed to entry of the Order. Any request for adequate assurance by  
18 such Additional Utility Company must otherwise comply with the requirements set  
19 forth in the Motion and Order or shall be deemed to assent to the Proposed Adequate  
20 Assurance.

21 **BASIS FOR RELIEF**

22 27. Pursuant to Bankruptcy Code § 366, during the first twenty (20) days  
23 following the commencement of a bankruptcy case, a utility may not alter, refuse, or  
24 discontinue service to, or discriminate against, a debtor solely on the basis of the  
25 commencement of the case or the failure of the debtor to pay a pre-petition debt for  
26 utility services provided. Following the 20-day period, however, utility companies  
27 may alter, refuse, or discontinue service if the debtor does not “furnish adequate  
28

1 assurance of payment” of post-petition utility service obligations. The continuance  
2 of utility services is vital to the ongoing success of the Debtor during the pendency of  
3 these Chapter 11 proceedings. In the ordinary course of business, the Debtor relies  
4 on the Utility Companies to provide electricity, water, telephone, telecommunications  
5 and internet services.

6 28. Accordingly, by this Motion, the Debtor seeks authority to provide to  
7 the Utility Companies “adequate assurance of payment” within the meaning of  
8 Bankruptcy Code § 366. If the Utility Companies are permitted to terminate service  
9 on the twenty-first day after the Petition Date, there will be severe disruptions in the  
10 Debtor’s business affairs. Further, to avert such harm, the Debtor would be required  
11 to pay whatever amounts are demanded by the Utility Companies to avoid the  
12 cessation of necessary services.

13 29. Bankruptcy Code § 366 provides that:

14 (a) Except as provided in subsections (b) and (c) of this section, a  
15 utility may not alter, refuse, or discontinue service to, or discriminate  
16 against, the trustee or the debtor solely on the basis of the  
17 commencement of a case under this title or that a debt owed by the  
debtor to such utility for service rendered before the order for relief was  
not paid when due.

18 (b) Such utility may alter, refuse, or discontinue service if neither the  
19 trustee nor the debtor, within 20 days after the date of the order for  
20 relief, furnishes adequate assurance of payment, in the form of a  
21 deposit or other security, for service after such date. On request of a  
party in interest and after notice and a hearing, the court may order  
22 reasonable modification of the amount of the deposit or other security  
necessary to provide adequate assurance of payment.

23 (c)(1)(A) For purposes of this subsection, the term “assurance of  
24 payment” means--

25 (i) a cash deposit;

26 (ii) a letter of credit;

27 (iii) a certificate of deposit;

28 (iv) a surety bond;

(v) a prepayment of utility consumption; or

1 (vi) another form of security that is mutually agreed on between the  
2 utility and the debtor or the trustee.

3 (B) For purposes of this subsection an administrative expense priority  
4 shall not constitute an assurance of payment.

5 (2) Subject to paragraphs (3) and (4), with respect to a case filed under  
6 chapter 11, a utility referred to in subsection (a) may alter, refuse, or  
7 discontinue utility service, if during the 30-day period beginning on the  
8 date of the filing of the petition, the utility does not receive from the  
9 debtor or the trustee adequate assurance of payment for utility service  
10 that is satisfactory to the utility.

11 (3)(A) On request of a party in interest and after notice and a hearing,  
12 the court may order modification of the amount of an assurance of  
13 payment under paragraph (2).

14 (B) In making a determination under this paragraph whether an  
15 assurance of payment is adequate, the court may not consider--

- 16 (i) the absence of security before the date of the filing of the petition;  
17 (ii) the payment by the debtor of charges for utility service in a timely  
18 manner before the date of the filing of the petition; or  
19 (iii) the availability of an administrative expense priority.

20 (4) Notwithstanding any other provision of law, with respect to a case  
21 subject to this subsection, a utility may recover or set off against a  
22 security deposit provided to the utility by the debtor before the date of  
23 the filing of the petition without notice or order of the court.

24 30. Bankruptcy Code § 366(c), like Section 366(b), simply requires that a  
25 utility's assurance of payment be "adequate." Courts have long recognized that  
26 adequate assurance of future performance does not require an absolute guarantee of a  
27 debtor's ability to pay. *See Steinebach v. Tucson Elec. Power (In re Steinebach)*, 303  
28 B.R. 634, 641 (Bankr. D. Ariz. 2004) ("Adequate assurance of payment is not,  
however, absolute assurance . . . all § 366(b) requires is that a utility receive only  
such assurance of payment as is necessary to protect its interests given the facts of  
the debtor's financial circumstances"). *See also, In re Santa Clara Circuits W., Inc.*,  
27 B.R. 680, 685 (Bankr. D. Utah 1982); *In re George C. Frye Co.*, 7 B.R. 856, 858  
(Bankr. D. Me. 1980).

31. In addition, there is nothing in Bankruptcy Code § 366 that precludes a

1 court from determining that the amount of such adequate assurance of payment is  
2 zero. *See Virginia Elec. & Power Co. v. Caldor, Inc.*, 117 F.3d 646, 650 (2nd Cir.  
3 1997) (noting that “[e]ven assuming that ‘other security’ should be interpreted  
4 narrowly, we agree . . . that a bankruptcy court’s authority to ‘modify’ the level of the  
5 ‘deposit or other security,’ provided for under § 366(b), includes the power to require  
6 no ‘deposit or other security’ where none is necessary to provide a utility supplier  
7 with “adequate assurance of payment”).

8 32. Courts have also recognized that in determining the amount of adequate  
9 assurance, bankruptcy courts should focus “on the need of the utility for assurance,  
10 and to require that the debtor supply no more than that, since the debtor almost  
11 perforce has a conflicting need to conserve scarce financial resources.” *See In re*  
12 *Penn. Cent. Transp. Co.*, 467 F.2d 100, 103-04 (3d Cir. 1972) (affirming bankruptcy  
13 court’s ruling that no utility deposits were necessary where such deposits would  
14 likely “jeopardize the continuing operating of the [debtor] merely to give further  
15 security to suppliers who are already reasonably protected”). Accordingly, demands  
16 by a utility for a guarantee of payment when they already have adequate assurance of  
17 payment in light of the Debtor’s specific circumstances should be refused.

18 33. The Debtor has a powerful incentive to stay current on its utility  
19 obligations because of its significant reliance on utility services, particularly electric,  
20 water and gas for operations of the Debtor’s various restaurant operations. Without  
21 utility services, the Debtor will be unable to continue such operations, which will be  
22 detrimental to all creditors. The Court should consider these factors when  
23 considering the amount, if any, of adequate assurance payments.

24 34. In light of the foregoing, the Debtor submits that if the Utility  
25 Companies disagree with the Debtor’s analysis, the procedures proposed in this  
26 Motion will enable the parties to negotiate and, if necessary, seek Court intervention  
27 without unnecessarily jeopardizing the Debtor’s continuing operations.  
28

35. The proposed procedures are necessary for the Debtor to carry out its continued operations and reorganization efforts. If the Court does not approve the proposed procedures, the Debtor could be forced to address numerous requests by its Utility Companies in a disorganized manner at a critical point in its reorganizations. Moreover, the Debtor could be blindsided by a Utility Company unilaterally deciding after the thirty-first day that it is not adequately protected and discontinuing service or making an exorbitant demand for payment to continue service. As set forth above, discontinuation of service would essentially halt the Debtor's operations, putting the Debtor's reorganization efforts in extreme jeopardy. The proposed procedures set forth a fair process, which will enable all parties to negotiate their respective positions and, where necessary, seek Court intervention without jeopardizing the Debtor's reorganization effort.

## NOTICE

36. No trustee, examiner, or official committee has been appointed in this case.

37. Notice of this Motion has been given to the Office of the United States Trustee, the Debtor's secured creditors, the Debtor's twenty (20) largest unsecured creditors, and the Utility Companies listed in Exhibit A hereto. Based on the nature of the relief requested in this Motion, the Debtor submits that no other notice need be given.

WHEREFORE, the Debtor respectfully requests the Court enter an Order substantially in the form attached hereto as **Exhibit B**:

A. Determining that the Utility Companies have been provided with adequate assurance of payment within the meaning of Bankruptcy Code § 366;

B. Approving the Debtor's Proposed Adequate Assurance and the Adequate Assurance Procedures;

C. Prohibiting Utility Companies from discontinuing, altering, or refusing

1 service to, or discriminating against, the Debtor;

2 D. Establishing the Objection Procedures;

3 E. Determining that the Debtor is not required to provide any additional  
4 adequate assurance, beyond what is proposed by this Motion, and

5 F. Granting such other and further relief as the Court deems appropriate  
6 under the facts and circumstances.

7 RESPECTFULLY SUBMITTED this 19th day of November, 2013.

8  
9 JENNINGS, STROUSS & SALMON, P.L.C.

10  
11 By: /s/ Kami M. Hoskins

12 Carolyn J. Johnsen

13 Kami M. Hoskins

14 *Proposed Attorneys for the Debtor*  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28